

## 21 C.J.S. Courts § 71

Corpus Juris Secundum | May 2023 Update

### Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

## II. Jurisdiction of Courts

### E. Mode of Acquiring Jurisdiction

#### 2. Jurisdiction by Party's Consent, Agreement, Waiver, or Estoppel

§ 71. Subject matter jurisdiction not conferred by consent, agreement, waiver, or estoppel

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Courts](#)  23, 24

**If the court lacks subject matter jurisdiction in a particular case, it cannot be conferred by the parties' consent, agreement, waiver, estoppel, or conduct.**

Because the court's subject matter jurisdiction does not relate to the rights of the parties,<sup>1</sup> parties cannot by their actions confer subject matter jurisdiction on the court if it is lacking,<sup>2</sup> whether by consent,<sup>3</sup> agreement,<sup>4</sup> contract,<sup>5</sup> stipulation,<sup>6</sup> acquiescence,<sup>7</sup> waiver, estoppel,<sup>8</sup> laches,<sup>9</sup> failure to demur or object,<sup>10</sup> appearance,<sup>11</sup> or silence.<sup>12</sup> It does matter whether the parties' act purporting to confer subject matter jurisdiction is explicit or implicit, if jurisdiction is lacking.<sup>13</sup>

## CUMULATIVE SUPPLEMENT

## Cases:

Subject matter jurisdiction may not be created by waiver, estoppel, consent, or conduct of the parties. [Florence Lake Investments, LLC v. Berg](#), 312 Neb. 183, 978 N.W.2d 308 (2022).

Subject-matter jurisdiction cannot be conferred by agreement, consent, or waiver, and issues involving subject-matter jurisdiction can be raised by the court or a party at any time in a proceeding. [Trenton Indian Housing Authority v. Poitra](#), 2022 ND 87, 973 N.W.2d 419 (N.D. 2022).

## [END OF SUPPLEMENT]

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

## Footnotes

- 1 Neb.—[Holdsworth v. Greenwood Farmers Cooperative](#), 286 Neb. 49, 835 N.W.2d 30 (2013).
- 2 Cal.—[Bains v. Department of Industrial Relations](#), 244 Cal. App. 4th 1120, 198 Cal. Rptr. 3d 772 (3d Dist. 2016), review denied, (Apr. 27, 2016).  
  
Ky.—[Basin Energy Co. v. Howard](#), 447 S.W.3d 179 (Ky. Ct. App. 2014).  
  
Mo.—[Blanchette v. Blanchette](#), 476 S.W.3d 273 (Mo. 2015).  
  
Neb.—[Holdsworth v. Greenwood Farmers Cooperative](#), 286 Neb. 49, 835 N.W.2d 30 (2013).  
  
N.C.—[Carpenter v. Carpenter](#), 781 S.E.2d 828 (N.C. Ct. App. 2016).  
  
S.D.—[Estate of Ducheneaux v. Ducheneaux](#), 2015 SD 11, 861 N.W.2d 519 (S.D. 2015).
- 3 Ala.—[Orban v. Orban](#), 123 So. 3d 525 (Ala. Civ. App. 2012).  
  
Kan.—[Miller v. Preisser](#), 295 Kan. 356, 284 P.3d 290 (2012).  
  
Miss.—[Mississippi Dept. of Revenue v. AT & T Corp.](#), 101 So. 3d 1139 (Miss. 2012).  
  
Neb.—[Holdsworth v. Greenwood Farmers Cooperative](#), 286 Neb. 49, 835 N.W.2d 30 (2013).  
  
N.D.—[Kelly v. Kelly](#), 2011 ND 167, 806 N.W.2d 133 (N.D. 2011).  
  
Wash.—[Outsource Services Management, LLC v. Nooksack Business Corp.](#), 181 Wash. 2d 272, 333 P.3d 380 (2014).
- 4 Conn.—[Lucas v. Zoning Com'n of Town of Harwinton](#), 130 Conn. App. 587, 23 A.3d 1261 (2011).  
  
Miss.—[Mississippi Dept. of Revenue v. AT & T Corp.](#), 101 So. 3d 1139 (Miss. 2012).  
  
N.D.—[Alliance Pipeline L.P. v. Smith](#), 2013 ND 117, 833 N.W.2d 464 (N.D. 2013).  
  
Okla.—[Chase Home Finance LLC v. Gravitt](#), 2015 OK CIV APP 46, 350 P.3d 401 (Div. 4 2015).

- Wash.—Outsource Services Management, LLC v. Nooksack Business Corp., 181 Wash. 2d 272, 333 P.3d 380 (2014).
- 5 N.Y.—In re Stanley, 79 A.D.3d 1620, 914 N.Y.S.2d 476 (4th Dep't 2010).
- Wash.—Outsource Services Management, LLC v. Nooksack Business Corp., 172 Wash. App. 799, 292 P.3d 147 (Div. 1 2013).
- 6 Cal.—In re Marriage of Corona, 172 Cal. App. 4th 1205, 92 Cal. Rptr. 3d 17 (4th Dist. 2009).
- Ill.—J & J Ventures Gaming, LLC v. Wild, Inc., 395 Ill. Dec. 317, 38 N.E.3d 194 (App. Ct. 5th Dist. 2015).
- Miss.—Mississippi Dept. of Revenue v. AT & T Corp., 101 So. 3d 1139 (Miss. 2012).
- 7 Neb.—Holdsworth v. Greenwood Farmers Cooperative, 286 Neb. 49, 835 N.W.2d 30 (2013).
- Utah—Utah Down Syndrome Foundation, Inc. v. Utah Down Syndrome Ass'n, 2012 UT 86, 293 P.3d 241 (Utah 2012).
- Va.—Swalef v. Anderson, 50 Va. App. 100, 646 S.E.2d 458 (2007).
- 8 Cal.—AP-Colton LLC v. Ohaeri, 240 Cal. App. 4th 500, 192 Cal. Rptr. 3d 754 (4th Dist. 2015).
- Colo.—People In Interest of S.T., 2015 COA 147, 361 P.3d 1154 (Colo. App. 2015).
- Kan.—Goldman v. University of Kansas, 365 P.3d 435, 326 Ed. Law Rep. 1067 (Kan. Ct. App. 2015).
- Neb.—Holdsworth v. Greenwood Farmers Cooperative, 286 Neb. 49, 835 N.W.2d 30 (2013).
- N.C.—Gerhauser v. Van Bourgondien, 767 S.E.2d 378 (N.C. Ct. App. 2014).
- N.D.—Alliance Pipeline L.P. v. Smith, 2013 ND 117, 833 N.W.2d 464 (N.D. 2013).
- Tex.—Entergy Corporation v. Jenkins, 469 S.W.3d 330 (Tex. App. Houston 1st Dist. 2015).
- As to estoppel to deny acts in excess of subject matter jurisdiction provided the court has subject matter jurisdiction, see § 99.
- 9 Colo.—People In Interest of S.T., 2015 COA 147, 361 P.3d 1154 (Colo. App. 2015).
- N.Y.—Hart Family, LLC v. Town of Lake George, 110 A.D.3d 1278, 974 N.Y.S.2d 154 (3d Dep't 2013).
- 10 Fla.—Ingraham v. State, 122 So. 3d 934 (Fla. 2d DCA 2013).
- Ill.—Dig Right In Landscaping v. Illinois Workers' Compensation Comm'n, 2014 IL App (1st) 130410WC, 384 Ill. Dec. 346, 16 N.E.3d 739 (App. Ct. 1st Dist. 2014).
- Kan.—Goldman v. University of Kansas, 365 P.3d 435, 326 Ed. Law Rep. 1067 (Kan. Ct. App. 2015).
- N.C.—State v. Collins, 783 S.E.2d 9 (N.C. Ct. App. 2016).
- 11 Ky.—Coffey v. Kehoe Rock and Stone, LLC, 270 S.W.3d 902 (Ky. Ct. App. 2008).
- Tenn.—Turner v. Turner, 473 S.W.3d 257 (Tenn. 2015).
- 12 Conn.—Burton v. Connecticut Siting Council, 161 Conn. App. 329, 127 A.3d 1066 (2015).
- Tenn.—Turner v. Turner, 473 S.W.3d 257 (Tenn. 2015).

13

Conn.—Kleen Energy Systems, LLC v. Commissioner of Energy and Environmental Protection, 319 Conn. 367, 125 A.3d 905 (2015).

---

End of Document

© 2023 Thomson Reuters. No claim to original U.S.  
Government Works.